

SELECTION OF LEASED LANDS BY ALASKA

JULY 28, 1959.—Ordered to be printed

Mr. GRUENING, from the Committee on Interior and Insular Affairs,
submitted the following

R E P O R T

[To accompany S. 1412]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1412) to amend the act of July 7, 1958, providing for the admission of the State of Alaska into the Union, relating to selection by the State of Alaska of certain lands made subject to lease, permit, license, or contract, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

Committee action was unanimous and the executive agencies concerned have no objection to enactment of the proposed legislation.

PURPOSE OF MEASURE

S. 1412 would amend the Alaska Statehood Act (72 Stat. 339) by permitting the State, in exercising the right of selecting lands granted to it, to acquire lands that may have come under Federal oil and gas lease subsequent to statehood.

The committee is convinced that S. 1412 would carry out the primary intent and purpose of the Congress in making the land grants to the new State of Alaska; namely, that of enabling the people of Alaska to support statehood. Such grants are in our historic tradition for the admission of public lands States. In Alaska more than 98 percent of the total land area was in Federal ownership.

At the time of Alaska's admission, less than 1 percent of its land area had been surveyed. At the rate at which surveys had been progressing, it would have been many decades at best—some estimates ran up to 1,700 years—before the surveys would have reached a point whereby the minimum of two sections for each township, the historic minimum grant to new States, would have become available to Alaska. In lieu of granting specifically numbered sections, the 85th Congress made lump-sum land grants to Alaska, with the right of selection in certain instances and under certain circumstances.

Section 6(h) of the Alaska Statehood Act provides as follows:

Any lease, permit, license, or contract issued under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C., sec. 181 and following), as amended, or under the Alaska Coal Leasing Act of October 20, 1914 (38 Stat. 741; 30 U.S.C., sec. 432 and following), as amended, shall have the effect of withdrawing the lands subject thereto from selection by the State of Alaska under this Act, [unless such lease, permit, license, or contract is in effect on the date of approval of this Act, and] unless an application to select such lands is filed with the Secretary of the Interior within a period of five years after the date of the admission of Alaska into the Union. Such selections shall be made only from lands that are otherwise open to selection under this Act, and shall include the entire area that is subject to each lease, permit, license, or contract involved in the selections. Any patent for lands so selected shall vest in the State of Alaska all right, title, and interest of the United States in and to any such lease, permit, license, or contract that remains outstanding on the effective date of the patent, including the right to all rentals, royalties, and other payments accruing after that date under such lease, permit, license, or contract, and including any authority that may have been retained by the United States to modify the terms and conditions of such lease, permit, license, or contract: *Provided*, That nothing herein contained shall affect the continued validity of any such lease, permit, license, or contract or any rights arising thereunder.

S. 1412 would delete the part enclosed in black brackets from the law; namely, the words "unless such lease, permit, license, or contract is in effect on the date of approval of this Act, and."

The date of approval of the Statehood Act was July 7, 1958. At that time approximately 19 million acres were under Federal oil and gas lease in Alaska. Some 2 million of these acres were not available for State selection because of their withdrawal status under other provisions that precluded State selection.

Since July 7, 1958, approximately 25 million additional acres in Alaska have come under Federal oil and gas lease, thus withdrawing them from selection by the State under the restrictive provision of the law which this bill would delete. In addition, lease applications have been filed and are pending on nearly another quarter of a million acres.

During a substantial part of the time this tremendous Federal oil leasing boom was taking place, it was impossible for the State even to start making its selections because of the delay in the promulgation by the Department of the Interior of regulations governing such selections. Even with the regulations finally issued, selection inevitably has been a slow process because of the lack of the necessary land surveys and funds to speed up such surveys.

NEED FOR LEGISLATION

The need and desirability of S. 1412, enactment of which has been requested by the Alaska State Legislature, was stated cogently to the committee by the Honorable Phil Holdsworth, commissioner of natural resources, State of Alaska. Commissioner Holdsworth said, in part:

The State of Alaska, in making application for land selections under the general land grant provisions of the statehood bill, will select primarily areas of maximum surface use in the public interest. Unfortunately, the areas of maximum surface use potential are often identical to those areas lying within favorable geologic basins and which are already covered by oil and gas leases. Should the State select these areas with the present restrictive date of July 7, 1958, still in effect, the resultant selections would contain a checker-boarded pattern of ownership; that is, tracts of federally owned and leased lands intermingled with State-owned lands on which a Federal oil and gas lease would exist. By the terms of the statehood bill it would then be necessary for the Federal Bureau of Land Management to segregate by actual survey Federal lands which lie within large State selections. This would not only be time consuming, but unnecessarily costly for the Federal Government, and would result in mixed management of possible common oil-producing areas.

By way of explanation, on the date of passage of Public Law 85-508 (the arbitrary date of July 7, 1958, involved in the subject proviso) approximately 19 million acres of land were under Federal oil and gas lease in Alaska. Approximately 2 million of these acres were not available to State selection because of their withdrawn status under other provisions which would preclude State selection. Since July 7, 1958, approximately 25 million acres of Federal oil and gas leases have been issued. According to the present terms of Public Law 85-508, this latter acreage is not available for State selection. Unfortunately, it happens to cover some of our most promising lands, containing timber and agricultural possibilities as well as being suitable for community expansion and other surface development.

If Alaska is to attain financial independence as a full-fledged member of the Union of States it must have maximum management of its lands and the resources on and in those lands. We believe that the removal of the restrictive date of July 7, 1958, from the provisions of section 6(h) of the act of July 7, 1958, will permit such management which was the intent of Congress in granting statehood. We therefore recommend the passage of this bill.

EXECUTIVE AGENCY REPORTS

The "no objection" reports of the Department of the Interior and the Bureau of the Budget are set forth below:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 17, 1959.

HON. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.*

DEAR SENATOR MURRAY: This is in response to your request for the views of this Department on S. 1412, a bill to amend the act of July 7, 1958, providing for the admission of the State of Alaska into the Union, relating to selection by the State of Alaska of certain lands made subject to lease, permit, license, or contract.

The purpose of S. 1412 is to amend section 6(h) of the Alaska Statehood Act so as to broaden the categories of lands eligible for selection by the new State of Alaska under land selection rights granted in said act. Under that act, grants of public land, amounting to about 105 million acres, were made or confirmed to the State. One provision of the act is that in satisfaction of its grants the State may not select any public lands covered by mineral leases, permits, licenses, or contracts unless such leases, permits, licenses, or contracts were in effect July 7, 1958. The right to select such lands will terminate in January 1964, 5 years after date of admission of Alaska into the Union.

This Department is of the opinion that since the Congress in its wisdom saw fit to qualify the land selection rights granted in the first instance, it is a matter for the Congress to decide whether this qualification should be repealed. The Department of the Interior, therefore, offers no recommendation concerning the merits of this legislation.

The provision sought to be amended by S. 1412 now reads as follows:

"Any lease, permit, license, or contract issued under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C., sec. 181 and following), as amended, or under the Alaska Coal Leasing Act of October 20, 1914 (38 Stat. 741; 30 U.S.C., sec. 432 and following), as amended, shall have the effect of withdrawing the lands subject thereto from selection by the State of Alaska under this Act, unless such lease, permit, license, or contract is in effect on the date of approval of this Act, and unless an application to select such lands is filed with the Secretary of the Interior within a period of five years after the date of the admission of Alaska into the Union."

Enactment of S. 1412 would have the effect of deleting from the language above the words "unless such lease, permit, license, or contract is in effect on the date of approval of this Act, and".

Insofar as this particular subparagraph is concerned, under present law Alaska may, under its land-selection rights, select lands which either are "vacant, unappropriated, and unreserved" at the time of selection, or lands which on July 7, 1958 (the date of the Statehood Act) were under mineral or coal lease, permit, license, or contract. It may not select lands which were vacant, unappropriated, and unreserved on July 7, 1958, but which, after that date but prior to the date of selection, went under mineral or coal lease, permit, license, or

contract. S. 1412 would open up to selection this latter class of lands.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

ELMER F. BENNETT,
Under Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 1, 1959.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of March 18, 1959, requesting the views of the Bureau of the Budget on S. 1412, a bill to amend the act of July 7, 1958, providing for the admission of the State of Alaska into the Union, relating to selection by the State of Alaska of certain lands made subject to lease, permit, license, or contract.

The Alaska Statehood Act of July 7, 1958, grants to the State the right to select for its own use a certain amount of vacant, unappropriated, and unreserved public lands of the United States in Alaska. While lands under mineral lease generally may not be selected by the State under that grant, Alaska is authorized to take lands which are subject to lease, permit, license, or contract issued under the Mineral Leasing Act of 1920 and the Alaska Coal Leasing Act of 1914, but only if such lands were subject to lease, permit, license, or contract on July 7, 1958, and only if the applications to select such lands are filed within 5 years after the admission of Alaska into the Union. At present, therefore, Alaska may not select lands made subject to lease, permit, license, or contract under those leasing laws after July 7, 1958. S. 1412 would amend section 6(h) of the Statehood Act to allow Alaska to select any such lands provided they are applied for within 5 years after Alaska's admission into the Union, regardless of when those lands were made subject to lease, permit, license, or contract.

The Bureau of the Budget has no objection to the enactment of S. 1412. Such action would be in accord with the sentiments expressed in the Senate and House of Representatives committee reports on Alaska statehood legislation in 1958. Both of those reports stressed the need to grant Alaska a reasonable share of the mineral and other wealth within her boundaries and the need to restrict reservations of Federal lands in Alaska which bar the use of such land by the State. In the same spirit, the Statehood Act, in a number of instances relating to Federal revenues from sealskin sales, mineral royalties, and national forests, also provides for granting Alaska a share of those revenues. Unless Alaska is given the right to select the lands covered by S. 1412, it will be denied access to a considerable portion of the potentially valuable lands within its borders.

It must, however, be noted that the amendment to the Alaska Statehood Act proposed in S. 1412 presents an unusual problem. Section 4 of the Statehood Act provides that "as a compact with the United States said State and its people do agree and declare that

they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivisions by or under the authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States * * *." S. 1412 would, in effect, amend that compact by granting to the State the right to select lands not granted under the original Statehood Act. While it may be that such a compact is amendable if both the State and the Federal Government are agreeable, especially since the Congress possesses authority to dispose of U.S. territory and other property as it deems desirable, your committee may wish to secure the views of the Department of Justice on that matter. Also, because of the compact involved, the Congress may desire to provide in S. 1412 for Alaska's assent to such an amendment to the provisions of the compact.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill S. 1412, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

THE ALASKA STATEHOOD ACT

(Public Law 508, 85th Cong.; 72 Stat. 339)

SEC 6. * * *

* * * * *

(h) [Any lease, permit, license, or contract issued under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C., sec. 181 and following), as amended, or under the Alaska Coal Leasing Act of October 20, 1914 (38 Stat. 741; 30 U.S.C., sec. 432 and following), as amended, shall have the effect of withdrawing the lands subject thereto from selection by the State of Alaska under this Act, unless such lease, permit, license, or contract is in effect on the date of approval of this Act, and unless an application to select such lands is filed with the Secretary of the Interior within a period of five years after the date of the admission of Alaska into the Union.] *Any lease, permit, license, or contract issued under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181 and the following), as amended, or under the Alaska Coal Leasing Act of October 20, 1914 (38 Stat. 741; 30 U.S.C. 432 and the following), as amended, shall have the effect of withdrawing the lands subject thereto from selection by the State of Alaska under this Act, unless an application to select such lands is filed with the Secretary of the Interior within a period of five years after the date of the admission of Alaska into the Union.* Such selections shall be made only from lands that are otherwise open to selection under this Act, and shall include the entire area that is subject to each lease, permit, license, or contract involved in the selections. Any patent for lands so selected shall vest in the State of Alaska all

right, title, and interest of the United States in and to any such lease, permit, license, or contract that remains outstanding on the effective date of the patent, including the right to all rentals, royalties, and other payments accruing after that date under such lease, permit, license, or contract, and including any authority that may have been retained by the United States to modify the terms and conditions of such lease, permit, license, or contract: *Provided*, That nothing herein contained shall affect the continued validity of any such lease, permit, license, or contract or any rights arising thereunder.



